IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 2245 of 2007(P)

CRL.M.P.NO.113/2007 IN CRA.20/2007 of ADDL. DISTRICT COURT-II, MAVELIKKARA
CC.805/2005 of J.M.F.C., KAYAMKULAM

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PETITIONER:

THOMAS MATHEW, S/O.KUNJACHAN MTHAI,
AGED 46 YEARS, BISHOP COMPOUND, KOLLUKA,
KARUNAGAPPILLY NOW RESIDING AT NO.17,
ARADHANA NAGAR, KOLLAM.

BY ADV. SRI.A.SHAFEEK

RESPONDENTS:

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1. PIOUS MOHANLAL, S/O.KUNJUKUNJU,
CHARUVAMPARAMBIL, KATTANAM MURI,
KATTANAM VILLAGE, PALLICKAL P.O.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SMT.LATHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P.C.No.2245 of 2007

Dated this the day of January 2007

JUDGMENT

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. He has challenged the said verdict of guilty, conviction and sentence by preferring an appeal before the Additional Sessions Court-II, Mavelikkara. There was a delay of 16 days in filing the appeal. The application for condonation of delay is posted by the learned Sessions Judge to 28/02/2007. The grievance of the petitioner is that posting of the case to such a distant date works out injustice to the petitioner. Unless the application for condonation of delay is considered expeditiously, the sentence is likely to be executed against him. It is, in these circumstances, prayed in this writ petition that appropriate directions may be issued to the learned Sessions Judge.

2. I am satisfied that adjournment of such an application for condonation of delay to such a distant date is not justified. The learned Sessions Judge shall forthwith suo moto advance the case and post to 31/01/2007. The petitioner shall take steps to

issue emergent notice to the respondent/complainant in that petition for condonation of delay. The petitioner is also given an opportunity to simultaneously give notice to the counsel for the respondent/complainant who was appearing before the court below. The learned Sessions Judge shall expeditiously dispose of the application for condonation of delay as also the application for suspension of execution. It is directed that the execution of the sentence shall stand suspended till 15/2/2007 on condition that the petitioner deposits an amount of Rs.25,000/- (Rupees twenty five thousand only) before the learned Sessions Judge within a period of fifteen days from this date. The learned Sessions Judge shall dispose of the application for condonation of delay and the application for suspension, by then.

Hand over copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006